

§ 162.516

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condition satisfactory to the Indian landowners;

(2) May be conveyed to the Indian landowners during the WEEL term and under what conditions the permanent improvements may be conveyed;

(3) Will be removed within a time period specified in the WEEL, at the lessee's expense, with the leased premises to be restored as closely as possible to their condition before installation of the permanent improvements; or

(4) Will be disposed of by other specified means.

(b) A WEEL that requires the lessee to remove the permanent improvements must also provide the Indian landowners with an option to take possession and title to the permanent improvements if the improvements are not removed within the specified time period.

§ 162.516 How will BIA enforce removal requirements in a WEEL?

We may take appropriate enforcement action to ensure removal of the permanent improvements and restoration of the premises at the lessee's expense:

(a) In consultation with the tribe, for tribal land or, where feasible, with Indian landowners for individually owned Indian land; and

(b) After termination, cancellation, or expiration of the WEEL.

§ 162.517 What requirements for due diligence must a WEEL include?

(a) A WEEL must include due diligence requirements that require the lessee to:

(1) Install testing and monitoring facilities within 12 months after the effective date of the WEEL or other period designated in the WEEL and consistent with the plan of development; and

(2) If installation does not occur, or is not expected to be completed, within the time period specified in paragraph (a)(1) of this section, provide the Indian landowners and BIA with an explanation of good cause for any delay, the anticipated date of installation of facilities, and evidence of progress toward installing or completing testing and monitoring facilities.

(b) Failure of the lessee to comply with the due diligence requirements of the WEEL is a violation of the WEEL and may lead to:

(1) Cancellation of the WEEL under § 162.592; and

(2) Application of the requirement that the lessee transfer ownership of energy resource information collected under the WEEL to the Indian landowners under § 162.520.

§ 162.518 How must a WEEL describe the land?

(a) A WEEL must describe the leased premises by reference to a public or private survey, if possible. If the land cannot be so described, the lease must include one or more of the following:

(1) A legal description;

(2) A survey-grade global positioning system description; or

(3) Another description prepared by a registered land surveyor that is sufficient to identify the leased premises.

(b) If the tract is fractionated, we will identify the undivided trust or restricted interests in the leased premises.

§ 162.519 May a WEEL allow for compatible uses by the Indian landowner?

The WEEL may provide for the Indian landowners to use, or authorize others to use, the leased premises for other noncompeting uses compatible with the purpose of the WEEL. This may include the right to lease the premises for other compatible purposes. Any such use by the Indian landowners will not reduce or offset the monetary compensation for the WEEL.

§ 162.520 Who owns the energy resource information obtained under the WEEL?

(a) The WEEL must specify the ownership of any energy resource information the lessee obtains during the WEEL term.

(b) Unless otherwise specified in the WEEL, the energy resource information the lessee obtains through the leased activity becomes the property of Indian landowners at the expiration, termination, or cancellation of the WEEL or upon failure by the lessee to

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diligently install testing and monitoring facilities on the leased premises in accordance with § 162.517.

(c) BIA will keep confidential any information it is provided that is marked confidential or proprietary and that is exempt from public release, to the extent allowed by law.

§ 162.521 May a lessee incorporate its WEEL analyses into its WSR lease analyses?

Any analyses a lessee uses to bring a WEEL activity into compliance with applicable laws, ordinances, rules, regulations under § 162.014 and any other legal requirements may be incorporated by reference, as appropriate, into the analyses of a proposed WSR lease.

§ 162.522 May a WEEL contain an option for the lessee to enter into a WSR lease?

(a) A WEEL may provide for an option period following the expiration of the WEEL term during which the lessee and the Indian landowners may enter into a WSR lease.

(b) Our approval of a WEEL that contains an option to enter into a WSR lease does not guarantee or imply our approval of any WSR lease.

WEEL MONETARY COMPENSATION REQUIREMENTS

§ 162.523 How much compensation must be paid under a WEEL?

(a) The WEEL must state how much compensation will be paid.

(b) A WEEL must specify the date on which compensation will be due.

(c) Failure to make timely payments is a violation of the WEEL and may lead to cancellation of the WEEL.

(d) The lease compensation requirements of §§ 162.552 through 162.558 also apply to WEELs.

§ 162.524 Will BIA require a valuation for a WEEL?

We will not require a valuation for a WEEL.

WEEL BONDING AND INSURANCE

§ 162.525 Must a lessee provide a performance bond for a WEEL?

We will not require the lessee to provide a performance bond or alternative form of security for a WEEL.

§ 162.526 [Reserved]

§ 162.527 Must a lessee provide insurance for a WEEL?

Except as provided in paragraph (d) of this section, a lessee must provide insurance necessary to protect the interests of Indian landowners and in the amount sufficient to protect all insurable permanent improvements on the leased premises.

(a) The insurance may include property, crop, liability, and casualty insurance, depending on the Indian landowners' interests to be protected.

(b) Both the Indian landowners and the United States must be identified as additional insured parties.

(c) Lease insurance may be increased and extended for use as the required WSR lease insurance.

(d) We may waive the requirement for insurance upon the request of the Indian landowner, if a waiver is in the best interest of the Indian landowner, including if the lease is for less than fair market rental or nominal compensation. For tribal land, we will defer, to the maximum extent possible, to the tribe's determination that a waiver is in its best interest.

WEEL APPROVAL

§ 162.528 What documents are required for BIA approval of a WEEL?

A lessee or the Indian landowners must submit the following documents to us to obtain BIA approval of a WEEL:

(a) A WEEL executed by the Indian landowners and the lessee that meets the requirements of this part;

(b) For tribal land, a tribal authorization for the WEEL;

(c) Proof of insurance, as required by § 162.527;

(d) Statement from the appropriate tribal authority that the proposed use is in conformance with applicable tribal law, if required by the tribe;